

**Notice of Allowability**

Application No.

09/519,563

Examiner

Michael M. Thompson

Applicant(s)

HALLER ET AL.

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.


1. ☒ This communication is responsive to 09/20/04.
2. ☒ The allowed claim(s) is/are 1-13,27-28.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 04/14/05.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
NICHOLAS D. LUCIFORA  
SUPERVISORY PATENT EXAMINER  
TECHNICAL CENTER 190

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Keith Campbell on 04/14/2005.

The application has been amended as follows:

#### **In the Claims:**

27. (Currently Amended) A method of **causing fluid flow through an implantable beneficial agent infusion device, the device comprising a deflectable energy storing member and a fluid flow path blocked by the deflectable energy storing member in an un-energized position, the method** comprising:
  - (a) energizing ~~a~~ **the** deflectable energy storing member with at least one of electric charge and electric voltage and causing same to deflect from an un-energized position to an energized position;
  - (b) causing fluid to flow through ~~a~~ **the** path blocked by the deflectable energy storing member in the un-energized position in response to the energy storing member deflecting;
  - (c) de-energizing the deflectable energy storing member and causing same to move to the un-energized position, and
  - (d) recovering at least a portion of the electric charge from the deflectable energy storing member when the deflectable energy storing member returns to its un-energized position.

2. The following is an examiner's statement of reasons for allowance: It appears the prior art fails of record fails to teach or render obvious An implantable beneficial agent infusion device, comprising, *inter alia*, the combination of a hermetically sealed enclosure, a fluid reservoir positioned at least partially within the hermetic enclosure, the fluid reservoir being adapted to contain a fluid containing a beneficial agent therewithin, a catheter for delivering the fluid into a patient's body a controllable pump, the pump communicating with the reservoir and the catheter and causing the fluid to move from the reservoir into the catheter upon receiving a command actuating same, a valve assembly comprising a deflectable energy storage member, and an electrical circuit configured to controllably energize and deflecting the energy storing member by providing an output voltage and electric charge thereacross or therein, and configured to recover at least a portion of the electric charge from the deflectable energy storing member when the output voltage provide thereto is switched off to include the method of use *supra*.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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### ***Drawings***

3. New formal drawings are required in this application. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### **Contacts**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael Thompson whose telephone number is (571) 272-4968. The Examiner can normally be reached on Monday through Friday from 9 am to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Nick Lucchesi, can be reached on (571) 272-4977. The official fax phone number for all submissions to the organization where this application or proceeding is assigned is (703) 872-9306.

Michael M. Thompson

Patent Examiner

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April 14, 2005